

ASSEMBLY, No. 227

STATE OF NEW JERSEY

216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

Sponsored by:

Assemblyman REED GUSCIORA

District 15 (Hunterdon and Mercer)

Assemblywoman LINDA STENDER

District 22 (Middlesex, Somerset and Union)

Assemblyman TIMOTHY J. EUSTACE

District 38 (Bergen and Passaic)

SYNOPSIS

Requires disclosure of contributions received and expenditures made by committees or organizations not affiliated or coordinated with any candidate, or committee organized to support or oppose public questions.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



1 AN ACT requiring disclosure by certain political committees and
2 organizations, amending P.L.1973, c.83 and P.L.1995, c.391, and
3 supplementing P.L.1973, c.83 (C.19:44A-1 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. Section 3 of P.L.1973, c.83 (C.19:44A-3) is amended to read
9 as follows:

10 3. As used in this act, unless a different meaning clearly
11 appears from the context:

12 a. (Deleted by amendment, P.L.1993, c.65.)

13 b. (Deleted by amendment, P.L.1993, c.65.)

14 c. The term "candidate" means: (1) an individual seeking
15 election to a public office of the State or of a county, municipality
16 or school district at an election; except that the term shall not
17 include an individual seeking party office; (2) an individual who
18 shall have been elected or failed of election to an office, other than
19 a party office, for which he sought election and who receives
20 contributions and makes expenditures for any of the purposes
21 authorized by section 17 of P.L.1993, c.65 (C.19:44A-11.2) during
22 the period of his service in that office; and (3) an individual who
23 has received funds or other benefits or has made payments solely
24 for the purpose of determining whether the individual should
25 become a candidate as defined in paragraphs (1) and (2) of this
26 subsection.

27 d. The terms "contributions" and "expenditures" include all
28 loans and transfers of money or other thing of value to or by any
29 candidate, candidate committee, joint candidates committee,
30 political committee, continuing political committee, political party
31 committee or legislative leadership committee and all pledges or
32 other commitments or assumptions of liability to make any such
33 transfer; and for purposes of reports required under the provisions
34 of this act shall be deemed to have been made upon the date when
35 such commitment is made or liability assumed.

36 e. The term "election" means any election described in section
37 4 of this act.

38 f. The term "paid personal services" means personal, clerical,
39 administrative or professional services of every kind and nature
40 including, without limitation, public relations, research, legal,
41 canvassing, telephone, speech writing or other such services,
42 performed other than on a voluntary basis, the salary, cost or
43 consideration for which is paid, borne or provided by someone
44 other than the committee, candidate or organization for whom such
45 services are rendered. In determining the value, for the purpose of

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 reports required under this act, of contributions made in the form of
2 paid personal services, the person contributing such services shall
3 furnish to the treasurer through whom such contribution is made a
4 statement setting forth the actual amount of compensation paid by
5 said contributor to the individuals actually performing said services
6 for the performance thereof. But if any individual or individuals
7 actually performing such services also performed for the contributor
8 other services during the same period, and the manner of payment
9 was such that payment for the services contributed cannot readily
10 be segregated from contemporary payment for the other services,
11 the contributor shall in his statement to the treasurer so state and
12 shall either (1) set forth his best estimate of the dollar amount of
13 payment to each such individual which is attributable to the
14 contribution of his paid personal services, and shall certify the
15 substantial accuracy of the same, or (2) if unable to determine such
16 amount with sufficient accuracy, set forth the total compensation
17 paid by him to each such individual for the period of time during
18 which the services contributed by him were performed. If any
19 candidate is a holder of public office to whom there is attached or
20 assigned, by virtue of said office, any aide or aides whose services
21 are of a personal or confidential nature in assisting him to carry out
22 the duties of said office, and whose salary or other compensation is
23 paid in whole or part out of public funds, the services of such aide
24 or aides which are paid for out of public funds shall be for public
25 purposes only; but they may contribute their personal services, on a
26 voluntary basis, to such candidate for election campaign purposes.

27 g. (Deleted by amendment, P.L.1983, c.579.)

28 h. The term "political information" means any statement
29 including, but not limited to, press releases, pamphlets, newsletters,
30 advertisements, flyers, form letters, or radio or television programs
31 or advertisements which reflects the opinion of the members of the
32 organization on any candidate or candidates for public office, on
33 any public question, or which contains facts on any such candidate,
34 or public question whether or not such facts are within the personal
35 knowledge of members of the organization.

36 i. The term "political committee" means any two or more
37 persons acting jointly, or any corporation, partnership, or any other
38 incorporated or unincorporated association which is organized to, or
39 does, aid or promote the nomination, election or defeat of any
40 candidate or candidates for public office, or which is organized to,
41 or does, aid or promote the passage or defeat of a public question in
42 any election, if the persons, corporation, partnership or incorporated
43 or unincorporated association raises or expends \$1,000.00 or more
44 to so aid or promote the nomination, election or defeat of a
45 candidate or candidates or the passage or defeat of a public
46 question; provided that for the purposes of this act, the term
47 "political committee" shall not include a "continuing political

1 committee," as defined by subsection n. of this section, a "political
2 party committee," as defined by subsection p. of this section, a
3 "candidate committee," as defined by subsection q. of this section, a
4 "joint candidates committee," as defined by subsection r. of this
5 section or a "legislative leadership committee," as defined by
6 subsection s. of this section.

7 j. The term "public solicitation" means any activity by or on
8 behalf of any candidate, political committee, continuing political
9 committee, candidate committee, joint candidates committee,
10 legislative leadership committee or political party committee
11 whereby either (1) members of the general public are personally
12 solicited for cash contributions not exceeding \$20.00 from each
13 person so solicited and contributed on the spot by the person so
14 solicited to a person soliciting or through a receptacle provided for
15 the purpose of depositing contributions, or (2) members of the
16 general public are personally solicited for the purchase of items
17 having some tangible value as merchandise, at a price not exceeding
18 \$20.00 per item, which price is paid on the spot in cash by the
19 person so solicited to the person so soliciting, when the net
20 proceeds of such solicitation are to be used by or on behalf of such
21 candidate, political committee, continuing political committee,
22 candidate committee, joint candidates committee, legislative
23 leadership committee or political party committee.

24 k. The term "testimonial affair" means an affair of any kind or
25 nature including, without limitation, cocktail parties, breakfasts,
26 luncheons, dinners, dances, picnics or similar affairs directly or
27 indirectly intended to raise campaign funds in behalf of a person
28 who holds, or who is or was a candidate for nomination or election
29 to a public office in this State, or directly or indirectly intended to
30 raise funds in behalf of any political party committee or in behalf of
31 a political committee, continuing political committee, candidate
32 committee, joint candidates committee or legislative leadership
33 committee.

34 l. The term "other thing of value" means any item of real or
35 personal property, tangible or intangible, but shall not be deemed to
36 include personal services other than paid personal services.

37 m. The term "qualified candidate" means:

38 (1) Joint candidates for election to the offices of Governor and
39 Lieutenant Governor whose names appear on the general election
40 ballot; who have deposited and expended \$150,000.00 pursuant to
41 section 7 of P.L.1974, c.26 (C.19:44A-32); and who, not later than
42 September 1 preceding a general election in which the offices of
43 Governor and Lieutenant Governor are to be filled, (a) notify the
44 Election Law Enforcement Commission in writing that the
45 candidates intend that application will be made on the candidates'
46 behalf for monies for general election campaign expenses under
47 subsection b. of section 8 of P.L.1974, c.26 (C.19:44A-33), and (b)

1 sign a statement of agreement, in a form to be prescribed by the
2 commission, to participate in interactive gubernatorial election
3 debates under the provisions of sections 9 through 11 of P.L.1989,
4 c.4 (C.19:44A-45 through C.19:44A-47); or

5 (2) Joint candidates for election to the offices of Governor and
6 Lieutenant Governor whose names do not appear on the general
7 election ballot; who have deposited and expended \$150,000.00
8 pursuant to section 7 of P.L.1974, c.26 (C.19:44A-32); and who,
9 not later than September 1 preceding a general election in which the
10 offices of Governor and Lieutenant Governor are to be filled, (a)
11 notify the Election Law Enforcement Commission in writing that
12 the candidates intend that application will be made on the
13 candidates' behalf for monies for general election campaign
14 expenses under subsection b. of section 8 of P.L.1974, c.26
15 (C.19:44A-33), and (b) sign a statement of agreement, in a form to
16 be prescribed by the commission, to participate in interactive
17 gubernatorial election debates under the provisions of sections 9
18 through 11 of P.L.1989, c.4 (C.19:44A-45 through C.19:44A-47);
19 or

20 (3) Any candidate for nomination for election to the office of
21 Governor whose name appears on the primary election ballot; who
22 has deposited and expended \$150,000.00 pursuant to section 7 of
23 P.L.1974, c.26 (C.19:44A-32); and who, not later than the last day
24 for filing petitions to nominate candidates to be voted upon in a
25 primary election for a general election in which the office of
26 Governor is to be filled, (a) notifies the Election Law Enforcement
27 Commission in writing that the candidate intends that application
28 will be made on the candidate's behalf for monies for primary
29 election campaign expenses under subsection a. of section 8 of
30 P.L.1974, c.26 (C.19:44A-33), and (b) signs a statement of
31 agreement, in a form to be prescribed by the commission, to
32 participate in two interactive gubernatorial primary debates under
33 the provisions of sections 9 through 11 of P.L.1989, c.4 (C.19:44A-
34 45 through C.19:44A-47); or

35 (4) Any candidate for nomination for election to the office of
36 Governor whose name does not appear on the primary election
37 ballot; who has deposited and expended \$150,000.00 pursuant to
38 section 7 of P.L.1974, c.26 (C.19:44A-32); and who, not later than
39 the last day for filing petitions to nominate candidates to be voted
40 upon in a primary election for a general election in which the office
41 of Governor is to be filled, (a) notifies the Election Law
42 Enforcement Commission in writing that the candidate intends that
43 application will be made on the candidate's behalf for monies for
44 primary election campaign expenses under subsection a. of section
45 8 of P.L.1974, c.26 (C.19:44A-33), and (b) signs a statement of
46 agreement, in a form to be prescribed by the commission, to
47 participate in two interactive gubernatorial primary debates under

1 the provisions of sections 9 through 11 of P.L.1989, c.4 (C.19:44A-
2 45 through C.19:44A-47).

3 n. The term "continuing political committee" means any group
4 of two or more persons acting jointly, or any corporation,
5 partnership, or any other incorporated or unincorporated
6 association, including a political club, political action committee,
7 civic association or other organization, which in any calendar year
8 contributes or expects to contribute at least \$2,500.00 to the aid or
9 promotion of the candidacy of an individual, or of the candidacies
10 of individuals, for elective public office, or the passage or defeat of
11 a public question or public questions, and which may be expected to
12 make contributions toward such aid or promotion or passage or
13 defeat during a subsequent election, provided that the group,
14 corporation, partnership, association or other organization has been
15 determined to be a continuing political committee under subsection
16 b. of section 8 of P.L.1973, c.83 (C.19:44A-8); provided that for the
17 purposes of this act, the term "continuing political committee" shall
18 not include a "political party committee," as defined by subsection
19 p. of this section, or a "legislative leadership committee," as defined
20 by subsection s. of this section.

21 o. The term "statement of agreement" means a written
22 declaration, by a candidate for nomination for election to the office
23 of Governor, or by joint candidates for election to the offices of
24 Governor and Lieutenant Governor who intend that application will
25 be made on behalf of the candidate for the office of Governor to
26 receive monies for the primary election or on behalf of the
27 candidates for the office of Governor and the office of Lieutenant
28 Governor for general election campaign expenses under subsection
29 a. or subsection b., respectively, of section 8 of P.L.1974, c.26
30 (C.19:44A-33), that the candidates undertake to abide by the terms
31 of any rules established by any private organization sponsoring a
32 gubernatorial primary or general election debate, as appropriate, to
33 be held under the provisions of sections 9 through 11 of P.L.1989,
34 c.4 (C.19:44A-45 through C.19:44A-47) and in which the
35 candidates are to participate. The statement of agreement shall
36 include an acknowledgment of notice to the candidates who sign it
37 that failure on the candidates' part to participate in any of the
38 gubernatorial debates may be cause for the termination of the
39 payment of such monies on the candidates' behalf and for the
40 imposition of liability for the return to the commission of such
41 monies as may previously have been so paid.

42 p. The term "political party committee" means the State
43 committee of a political party, as organized pursuant to R.S.19:5-4,
44 any county committee of a political party, as organized pursuant to
45 R.S.19:5-3, or any municipal committee of a political party, as
46 organized pursuant to R.S.19:5-2.

1 q. The term "candidate committee" means a committee
2 established pursuant to subsection a. of section 9 of P.L.1973, c.83
3 (C.19:44A-9) for the purpose of receiving contributions and making
4 expenditures.

5 r. The term "joint candidates committee" means a committee
6 established pursuant to subsection a. of section 9 of P.L.1973, c.83
7 (C.19:44A-9) by at least two candidates for the same elective public
8 offices in the same election in a legislative district, county,
9 municipality or school district, but not more candidates than the
10 total number of the same elective public offices to be filled in that
11 election, for the purpose of receiving contributions and making
12 expenditures. For the purpose of this subsection: the offices of
13 member of the Senate and members of the General Assembly shall
14 be deemed to be the same elective public offices in a legislative
15 district; the offices of member of the board of chosen freeholders
16 and county executive shall be deemed to be the same elective public
17 offices in a county; and the offices of mayor and member of the
18 municipal governing body shall be deemed to be the same elective
19 public offices in a municipality.

20 s. The term "legislative leadership committee" means a
21 committee established, authorized to be established, or designated
22 by the President of the Senate, the Minority Leader of the Senate,
23 the Speaker of the General Assembly or the Minority Leader of the
24 General Assembly pursuant to section 16 of P.L.1993, c.65
25 (C.19:44A-10.1) for the purpose of receiving contributions and
26 making expenditures.

27 t. The term "independent expenditure" means an expenditure
28 that is made to aid or promote the nomination, election, or defeat of
29 a candidate for election to public office without the cooperation,
30 knowledge, or prior consent of, or without coordination or
31 consultation with, or without the request, suggestion or behest of, a
32 candidate or any person or committee acting on behalf of a
33 candidate, or an expenditure that is made to aid the passage or
34 defeat of a public question without the cooperation, knowledge, or
35 prior consent of, or without coordination or consultation with, or
36 without the request, suggestion or behest of any person or
37 committee supporting or opposing a public question, or an
38 expenditure that is made to fund a communication that, when taken
39 as a whole, expressly advocates the nomination, election or defeat
40 of a clearly identified candidate or expressly advocates supporting
41 or opposing a public question, or is the functional equivalent of
42 express advocacy because it can be interpreted by a reasonable
43 person only as advocating the nomination, election or defeat of a
44 candidate or advocating support for or opposition to a public
45 question, taking into account whether the communication involved
46 mentions a candidacy, a political party, or a challenger to a
47 candidate, or takes a position on a candidate's character,

1 qualifications, or fitness for office, or the merits of a public
2 question.

3 u. The term “independent expenditure-only committee” means
4 an organization organized under section 527 of the federal Internal
5 Revenue Code (26 U.S.C. s.527) or under paragraphs (4), (5) or (6)
6 of subsection c. of section 501 of the federal Internal Revenue Code
7 (26 U.S.C. s.501), or any other organization organized under federal
8 law that the commission determines is essentially similar to such
9 organizations and does not fall within the definition of any other
10 committee subject to the provisions of P.L.1973, c.83 (C.19:44A-1
11 et seq.). The term shall not include any organization organized
12 under paragraph (3) of subsection c. of section 501 of the Internal
13 Revenue Code (26 U.S.C. s.501).

14 (cf: P.L.2009, c.66, s.5)

15
16 2. (New section) a. Each independent expenditure-only
17 committee that makes independent expenditures of at least \$1,400
18 in the aggregate during a calendar year shall register with the
19 commission in accordance with section 21 of P.L.1993, c.65
20 (C.19:44A-8.1).

21 b. Each independent expenditure-only committee required to
22 register with the commission pursuant to subsection a. of this
23 section shall make a cumulative report, on a form prescribed by the
24 commission, of all contributions in the form of moneys, loans, paid
25 personal services, or other thing of value made to it, and of all
26 independent expenditures made, incurred, or authorized by it during
27 the period ending 48 hours preceding the date of the report and
28 beginning on the date on which the first of those contributions was
29 received or the first of those expenditures was made, whichever
30 occurred first. The cumulative report, except as hereinafter
31 provided, shall contain the name and mailing address of each person
32 or group that has contributed moneys, loans, paid personal services
33 or other things of value since 48 hours preceding the date on which
34 the previous such report was made and the amount contributed by
35 each person or group. If the contributor is an individual, the report
36 shall indicate the occupation of the individual and the name and
37 mailing address of the individual's employer. In the case of any
38 loan reported pursuant to this subsection, the report shall contain
39 the name and mailing address of each person who has cosigned such
40 loan since 48 hours preceding the date on which the previous such
41 report was made. If an individual has cosigned such a loan, the
42 report shall indicate the occupation of the individual and the name
43 and mailing address of the individual's employer. The cumulative
44 report shall also contain the name and address of each person, firm,
45 or organization to whom independent expenditures have been paid
46 since 48 hours preceding the date on which the previous such report
47 was made and the amount and purpose of each such expenditure.

1 The cumulative report shall be filed with the commission on the
2 dates designated in section 8 of P.L.1973, c.83 (C.19:44A-8).

3 c. An independent expenditure-only committee shall appoint a
4 single treasurer not later than the date on which it registers. Not
5 later than the tenth day after the initial designation of the treasurer,
6 the committee shall file the name and address of the treasurer with
7 the commission. The treasurer shall certify to the correctness of
8 each report filed with the commission and shall maintain all records
9 of contributions and independent expenditures for a period of not
10 less than four years.

11 d. During the period between the appointment of the treasurer
12 and the election for which contributions are accepted or
13 independent expenditures made by the committee, and thereafter, a
14 treasurer shall also file reports on the 29th day preceding and on the
15 11th day preceding the election, and thereafter on the 20th day
16 following such election. Concurrent with the report filed on the
17 20th day following an election, or at any time thereafter, the
18 treasurer of any committee that has wound up its business and been
19 dissolved shall so certify that fact to the commission.

20 e. (1) Any report filed pursuant to the provisions of this section
21 shall include an itemized accounting of all receipts relative to any
22 contribution received by the committee, which accounting shall
23 include the name and mailing address of each contributor
24 contributing \$2,500 or more to such committee and the amount
25 contributed by each. In the case of any individual contributor, the
26 occupation of the individual and the name and mailing address of
27 the individual's employer shall also be provided.

28 (2) Any report filed pursuant to the provisions of this section
29 shall include an itemized accounting of all expenditures relative to
30 any independent expenditures made, incurred or authorized by the
31 committee which are at least \$1,400 in the aggregate. The report
32 shall set forth the name and mailing address of the person, firm or
33 organization to whom or to which the expenditure was paid and the
34 amount and purpose of the expenditure.

35 f. (1) Each treasurer of a independent expenditure-only
36 committee shall file notice with the commission of a contribution of
37 \$2,500 or more received between the 13th day before the election
38 and the date of the election. The notice shall be filed in writing or
39 by electronic means within 48 hours of the receipt of the
40 contribution and shall set forth the amount and date of the
41 contribution, and the name and mailing address of the contributor.
42 If the contributor is an individual, the report shall include the
43 occupation of the individual, and the name and mailing address of
44 the individual's employer.

45 (2) Each treasurer of a independent expenditure-only committee
46 shall file notice with the commission of any independent
47 expenditure made, incurred or authorized by the committee between

1 the 13th day before the election and the date of the election. The
2 notice of an expenditure shall be filed in writing or by electronic
3 means within 48 hours of the making, incurring or authorization of
4 the expenditure and shall set forth the name and mailing address of
5 the person, firm or organization to whom or to which the
6 expenditure was paid and the amount and purpose of the
7 expenditure.

8 g. For each reportable independent expenditure made by an
9 independent expenditure-only committee, the treasurer thereof shall
10 certify, in the manner required by the commission, that the
11 expenditure was made without the cooperation, knowledge, or prior
12 consent of, or without coordination or consultation with, or without
13 the request, suggestion or behest of a candidate, a candidate's
14 committee, joint candidates committee, or both, or that the
15 expenditure was made to support or oppose the passage of a public
16 question without the cooperation, knowledge, or prior consent of, or
17 without coordination or consultation with, or without the request,
18 suggestion or behest of any person or committee supporting or
19 opposing a public question.

20 h. No person serving as the chairman of a political party
21 committee or a legislative leadership committee shall serve as the
22 chairperson of an independent expenditure-only committee, or as its
23 treasurer, or be involved in the management, control or formation of
24 an independent expenditure-only committee.

25 i. When an independent expenditure is made for the purpose of
26 communication after January 1 of the calendar year of a primary,
27 general, nonpartisan municipal, local or regional school board or
28 fire district election to nominate or elect candidates for election or
29 re-election to public offices, and in the case of a run-off or a special
30 election from the period beginning on the date on which the
31 announcement with respect to such election is made and ending on
32 the date of the run-off or special election, or with respect to a public
33 question, the committee shall comply with section 2 of P.L.1995,
34 c.391 (C.19:44A-22.3).

35 j. Each independent expenditure-only committee shall
36 establish an account that is separate and segregated from any other
37 bank account established by the committee and shall use that
38 account whenever it makes independent expenditures or receives
39 contributions to promote the election or defeat of any candidate for
40 elective public office in New Jersey or the passage or defeat of any
41 public question voted on by the voters of this State.

42 k. Any independent expenditure-only committee that fails to
43 comply with the provisions of this section shall, in addition to any
44 other penalty provided by law, be liable to the applicable penalty
45 provided by subsection a. of section 22 of P.L.1973, c.83
46 (C.19:44A-22).

1 3. Section 2 of P.L.1995. c.391 (C.19:44A-22.3) is amended to
2 read as follows:

3 2. a. Whenever a candidate committee, joint candidates
4 committee, political committee, continuing political committee,
5 political party committee or legislative leadership committee, or
6 any group other than such a committee, or any person makes, incurs
7 or authorizes an expenditure for the purpose of financing a
8 communication aiding or promoting the nomination, election or
9 defeat of any candidate or providing political information on any
10 candidate which is an expenditure that the committee, group or
11 person is required to report to the Election Law Enforcement
12 Commission pursuant to P.L.1973, c.83 (C.19:44A-1 et seq.), the
13 communication shall clearly state the name and business or
14 residence address of the committee, group or person, as that
15 information appears on reports filed with the commission, and that
16 the communication has been financed by that committee, group or
17 person.

18 b. Whenever a candidate committee, joint candidates
19 committee, political committee, continuing political committee,
20 political party committee or legislative leadership committee, or
21 any group other than such a committee, or any person makes, incurs
22 or authorizes an expenditure for the purpose of financing a
23 communication aiding the passage or defeat of any public question
24 or providing political information on any public question which is
25 an expenditure that the committee, group or person is required to
26 report to the Election Law Enforcement Commission pursuant to
27 P.L.1973, c.83 (C.19:44A-1 et seq.), the communication shall
28 clearly state the name and business or residence address of the
29 committee, group or person, as that information appears on reports
30 filed with the commission, and that the communication has been
31 financed by that committee, group or person.

32 c. A communication that is financed by any person, not acting
33 in concert with a candidate or any person or committee acting on
34 behalf of a candidate, shall contain a clear and conspicuous
35 statement that the expenditure was not made with the cooperation or
36 prior consent of, or in consultation with or at the request or
37 suggestion of, any such candidate, person or committee.

38 d. Any communication from an independent expenditure-only
39 committee that, when taken as a whole, expressly advocates the
40 nomination, election or defeat of a clearly identified candidate or
41 expressly advocates supporting or opposing a public question, or is
42 the functional equivalent of express advocacy because it can be
43 interpreted by a reasonable person only as advocating the
44 nomination, election or defeat of a candidate or advocating support
45 for or opposition to a public question, taking into account whether
46 the communication involved mentions a candidacy, a political party,
47 or a challenger to a candidate, or takes a position on a candidate's

1 character, qualifications, or fitness for office, or the merits of a
2 public question, shall contain a clear and conspicuous statement that
3 the expenditure was made without the cooperation, knowledge, or
4 prior consent of, or without coordination or consultation with, or
5 without the request, suggestion or behest of, a candidate or any
6 person or committee acting on behalf of a candidate, or that the
7 expenditure was made to support or oppose the passage of a public
8 question without the cooperation, knowledge, or prior consent of, or
9 without coordination or consultation with, or without the request,
10 suggestion or behest of any person or committee supporting or
11 opposing a public question. For each reportable communication
12 made by an independent expenditure-only committee, the treasurer
13 thereof shall certify, in the manner required by the commission, that
14 the communication was made without the cooperation, knowledge,
15 or prior consent of, or without coordination or consultation with, or
16 without the request, suggestion or behest of a candidate, a
17 candidate's committee, joint candidates committee, or both, or that
18 the expenditure was made to support or oppose the passage of a
19 public question without the cooperation, knowledge, or prior
20 consent of, or without coordination or consultation with, or without
21 the request, suggestion or behest of any person or committee
22 supporting or opposing a public question.

23 **[d.] e.** Any person who accepts compensation from a committee,
24 group or individual described in subsection a. or b. of this section
25 for the purpose of printing, broadcasting, or otherwise
26 disseminating to the electorate a communication shall maintain a
27 record of the transaction which shall include an exact copy of the
28 communication and a statement of the number of copies made or the
29 dates and times that the communication was broadcast or otherwise
30 transmitted, and the name and address of the committee, group or
31 individual paying for the communication. The record shall be
32 maintained on file at the principal office of the person accepting the
33 communication for at least two years and shall be available for
34 public inspection during normal business hours.

35 **[e.] f.** As used in this section, "communication" means a press
36 release, pamphlet, flyer, form letter, sign, billboard, paid
37 advertisement printed in any newspaper or other publication or
38 broadcast on radio or television, or telephone call featuring a
39 recorded message, or any other form of advertising directed to the
40 electorate.

41 **[f.] g.** The provisions of this section shall not be construed to
42 apply to any bona fide news item or editorial contained in any
43 publication of bona fide general circulation.

44 **[g.] h.** (1) A person who violates a provision of this section shall
45 be subject to the civil penalties provided in section 22 of P.L.1973,
46 c.83 (C.19:44A-22).

1 (2) A person who, with intent to injure anyone or to conceal
2 wrongdoing, purposely falsifies, conceals or misrepresents
3 information required by this section to be disclosed or maintained
4 on file is guilty of a crime of the fourth degree.

5 **[h.] i.** The Election Law Enforcement Commission shall
6 promulgate rules and regulations pursuant to the "Administrative
7 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate
8 the purpose of this section. The commission may, by regulation,
9 exempt from the provisions of this section small, tangible items of
10 de minimis value which are commonly used in campaigns to convey
11 a political message, including, but not limited to, buttons, combs,
12 and nail files. The commission may also, by regulation, exempt
13 from the provisions of this section advertising space purchased by a
14 candidate committee, joint candidates committee, political
15 committee, continuing political committee, political party
16 committee, legislative leadership committee or other person, in a
17 political program book distributed at a fund-raising event if the
18 financial transaction is otherwise subject to disclosure. An
19 exemption granted by the commission with respect to any item shall
20 not relieve the committee, group or individual making an
21 expenditure therefor from any applicable campaign finance
22 reporting requirements.

23 In addition, the commission shall have the authority to provide,
24 by regulation, that a communication need not include the address of
25 the committee, group or person financing the communication in
26 circumstances where the name of a committee, group or person
27 would be sufficient to identify it from the commission's records.

28 (cf: P.L.2004, c.30, s.1)

29
30 4. This act shall take effect on the 90th day following the date
31 of enactment.

32 33 34 STATEMENT

35
36 The purpose of this bill is to require disclosure of the
37 contributions received and the expenditures made by committees or
38 organizations that are not affiliated or coordinated with a candidate,
39 the candidate committee or joint candidates committee, or both, or a
40 committee organized to support or oppose a public question.

41 Under the bill, such a committee or organization is referred to as
42 an independent expenditure-only committee and defined as an
43 organization organized under section 527 of the federal Internal
44 Revenue Code or under paragraphs (4), (5) or (6) of subsection c. of
45 section 501 of the federal Internal Revenue Code, or any other
46 organization organized under federal law that the commission
47 determines is essentially similar to such organizations and does not

1 fall within the definition of any other organization subject to the
2 provisions of current law. Such a committee would not include any
3 organization organized under paragraph (3) of subsection c. of
4 section 501 of the federal Internal Revenue Code. The term
5 “independent expenditure” is defined as an expenditure that is made
6 to support or oppose a candidate for nomination or election to
7 public office without the cooperation, knowledge, or prior consent
8 of, or without coordination or consultation with, or without the
9 request, suggestion or behest of, a candidate or any person or
10 committee acting on behalf of a candidate, or an expenditure that is
11 made to support or oppose the passage of a public question without
12 the cooperation, knowledge, or prior consent of, or without
13 coordination or consultation with, or without the request, suggestion
14 or behest of any person or committee supporting or opposing a
15 public question, or an expenditure that is made to fund a
16 communication that, when taken as a whole, expressly advocates
17 the nomination, election or defeat of a clearly identified candidate
18 or expressly advocates supporting or opposing a public question, or
19 is the functional equivalent of express advocacy.

20 The bill requires an independent expenditure-only committee to:

21 1) register with the Election Law Enforcement Commission
22 (ELEC) if it makes an independent expenditure of at least \$1,400 in
23 the aggregate during a calendar year;

24 2) make a cumulative report on a quarterly basis, on a form
25 prescribed by ELEC, of all contributions in the form of moneys,
26 loans, paid personal services, or other thing of value made to it, and
27 of all independent expenditures made, incurred, or authorized by it
28 during the period ending 48 hours preceding the date of the report
29 and beginning on the date on which the first of those contributions
30 was received or the first of those expenditures was made, whichever
31 occurred first;

32 3) appoint a single treasurer who is to be responsible for
33 certifying the correctness of each report filed with ELEC and
34 maintaining all records of contributions and independent
35 expenditures for a period of not less than four years;

36 4) file a cumulative report on the 29th day and the 11th day
37 preceding and the 20th day following the election for which
38 contributions were received and independent expenditures were
39 made by the committee;

40 5) provide an itemized accounting of all receipts relative to any
41 contribution of \$2,500 or more received, or independent
42 expenditures of at least \$1,400 in the aggregate made by an
43 independent expenditure-only committee, which includes the name
44 and mailing address of each contributor contributing to such
45 committee and the amount contributed by each;

46 6) file notice with ELEC within 48 hours of a contribution of
47 \$2,500 or more received between the 13th day before an election

- 1 and the date of the election, and any independent expenditure made
2 during that period;
- 3 7) provide that no person serving as the chairman of a political
4 party committee or a legislative leadership committee may serve as
5 the chairperson of an independent expenditure-only committee, or
6 as its treasurer, or be involved in the management, control or
7 formation of an independent expenditure-only committee;
- 8 8) require each independent expenditure-only committee to
9 establish an account that is separate and segregated from any other
10 bank account established by the committee and use that account
11 whenever it makes independent expenditures or receives
12 contributions to promote the election or defeat of any candidate for
13 elective public office or the passage or defeat of any public question
14 voted on by the voters of this State;
- 15 9) provide that if any communication is made by an
16 independent expenditure-only committee after January 1 of the
17 calendar year of a primary, general, nonpartisan municipal, local or
18 regional school board or fire district election to nominate or elect
19 candidates for election or re-election to those offices, and in the
20 case of a run-off or special election during the period beginning on
21 the date on which the announcement with respect to such election is
22 made and ending on the date of the election, or with regard to a
23 public question, the communication must be reported to ELEC
24 pursuant to the current law regarding election communications; and
- 25 10) provide that any communication from an independent
26 expenditure-only committee that, when taken as a whole, expressly
27 advocates the nomination, election or defeat of a clearly identified
28 candidate or expressly advocates supporting or opposing a public
29 question, or is the functional equivalent of express advocacy, must
30 contain a clear statement that the expenditure was made without the
31 cooperation, knowledge, or prior consent of, or without
32 coordination or consultation with, or without the request, suggestion
33 or behest of, a candidate or any person or committee acting on
34 behalf of a candidate, or that the expenditure was made to support
35 or oppose the passage of a public question without the cooperation,
36 knowledge, or prior consent of, or without coordination or
37 consultation with, or without the request, suggestion or behest of
38 any person or committee supporting or opposing a public question.